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8 Counsel for Defendant Saul Sanchez-Reyes

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11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,	)	No. CR 12-0204 MMC
Plaintiff,	)	STIPULATION AND <del>PROPOSED</del>
v.	)	ORDER VACATING SEPTEMBER 5,
SAUL SANCHEZ REYES,	)	2012 HEARING DATE AND SETTING
Defendant.	)	BRIEFING AND HEARING DATES
	)	AND EXCLUDING ADDITIONAL
	)	TIME FROM SEPTEMBER 4, 2012 TO
	)	OCTOBER 31, 2012

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18 **STIPULATION**

19 This case is set for setting or change of plea on September 5, 2012. Based on records and  
20 other information that the defense received over the past several days, the defense needs to complete  
21 its investigation but anticipates that it will file a motion arguing that Mr. Sanchez Reyes was ordered  
22 deported based on a conviction that was constitutionally defective under *Padilla v. Kentucky*, 130 S.  
23 Ct. 1473 (2010) such that the deportation could not serve as a predicate for a prosecution under 8  
24 U.S.C. § 1326.

25 In lieu of the court appearance on September 5, 2012, the defense thus requests that the Court  
26 vacate the hearing date and set the following briefing and hearing schedule: defendant will file his

1 opening motion on September 26, 2012; the government will file an opposition on October 17, 2012;  
2 the defense will file a reply on October 24, 2012; the motion will be heard on October 31, 2012 or  
3 any date thereafter convenient to the Court. The government has no objection to this request and  
4 jointly submits these dates to the Court.

5 The parties also agree that the time between September 5, 2012 and October 31, 2012 (or some  
6 date thereafter convenient to the Court) should be excluded under the Speedy Trial Act; the  
7 continuance is necessary for effective preparation of counsel, 18 U.S.C. § 3161(h)(1)(D) and  
8 (h)(7)(A) and (h)(7)(B)(iv) and for defendant's pending motion as of September 26, 2012, and the  
9 ends of justice served by granting such a continuance outweigh the best interests of the public and  
10 the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

11 SO STIPULATED.

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13 Dated: 9/4/12

14 MELINDA HAAG  
United States Attorney

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16 Dated: 9/4/12

17 /s/  
18 J. MARK KANG  
19 Special Assistant United States Attorney

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21 Dated: 9/4/12

22 /s/  
23 SHAWN HALBERT  
24 Attorney for Defendant

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## ORDER

For the reasons stated above, the Court vacates the September 5, 2012 hearing date and sets the motion briefing and hearing date as follows: Defendant will file his opening motion on September 26, 2012; the government will file its opposition on October 17, 2012; the defense will file a reply on October 24, 2012; the motion will be heard on October 31, 2012 at 2:15 p.m.

IT IS FURTHER ORDERED that the time between September 5, 2012 and October 31, 2012 should be excluded under the Speedy Trial Act; the continuance is necessary for effective preparation of counsel, 18 U.S.C. § 3161(h)(1)(D) and (h)(7)(A) and (h)(7)(B)(iv) and for defendant's pending motion as of September 26, 2012, and the ends of justice served by granting such a continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

SO ORDERED.

DATED: September 4, 2012

*Maxine M. Chesney*  
THE HONORABLE MAXINE M. CHESNEY  
United States District Judge